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Questions Concerning the Proposal as a Whole

1) Completeness and clarity: Is the combined proposal complete? Each of the operational community proposals contains aspects to be completed in the future when the proposal is implemented. Is the combined proposal specified in sufficient detail such that it can be evaluated against the NTIA criteria?

The U.S. Council for International Business (USCIB) is pleased to respond to IANA Stewardship Transition Coordination Group's (ICG) July 31, 2015 solicitation of comments concerning the draft Proposal to Transition the Stewardship of the IANA Functions from NTIA to the global multi-stakeholder community. USCIB is a trade association composed of more than 300 multinational companies, law firms, and business associations, which includes a broad cross-section of the leading global companies in the information and communications technology (ICT) sector. USCIB members, which include parties to the non-contracted and contracted houses of ICANN, welcome this opportunity to offer a cross-community, cross-sectoral perspective on this critically important development in the Internet ecosystem.

Overall, USCIB supports the transition of the IANA stewardship functions. USCIB appreciates the considerable efforts of the ICG and the three operational communities (names, numbers, and protocols) to develop thoughtfully conceived approaches to the IANA stewardship transition, which address priorities we have emphasized throughout all of our submissions. These priorities include: conformance with the five NTIA transition criteria, development of robust and independent accountability mechanisms for running the IANA functions, and the importance of a durable, well-considered result -- rather an unduly rushed result. Concerning the latter point, we are pleased that NTIA notified Congress on August 17, 2015 of its plan to extend the IANA contract with ICANN until September 30, 2016 to allow sufficient time for thorough public comment, U.S. Government evaluation, and implementation of the proposals.

We believe the ICG's proposal addresses most of our priorities and sets forth a workable transition plan. We offer more specific comments (by paragraph number) to the questions posed by the ICG below:

@31: USCIB agrees with the ICG's assessment that the proposals of the operational communities are complete and clear, with the exception of the Names Proposal. We note that the completeness of the Names Proposal is contingent on the fulfillment of the Work-Stream 1 ICANN-level accountability mechanisms developed by the Cross-Community Working Group (CCWG) on Enhancing ICANN Accountability.

USCIB further agrees that the dependencies on ICANN accountability mechanisms pertain to: (1) ICANN budget and IANA budget; (2) community empowerment mechanisms; (3) creation of IANA Functions Review (IFR) (4) creation of Customer Standing Committee; (5) empowerment of Special IFR to determine that a separation process is necessary; (6) creation of an appeal mechanism relating to IANA functions; and (7) establishment of "fundamental bylaws."

@31@1142: Regarding the Naming Functions' proposed Separation Review, USCIB indicated in our May 2015 comments that we support the right of the Protocols and Numbers Communities of the IANA functions to separate from ICANN and choose another operator of their respective functions. We also support the right of the Names Community to separate from the PTI and choose another operator of the naming functions.

But the Names Functions Proposal lacks an important element. We concur with the ICANN Business Constituency (BC) that the ICG proposal should clarify the escalation processes necessary to precipitate separation and adopt a standard for determining when separation may be appropriately considered. The current proposed separation process does not clearly indicate what the Names Community should do through discussions with ICANN or PTI to remedy problems before resorting to the dramatic step of separation. Annex L should include a requirement for the Names Community to engage with PTI and/or ICANN before beginning a separation process in order to better safeguard against potential instability resulting from a shift to a new operator. Once the ICG or Names Community clarifies such substantive standards for separation, USCIB urges the CCWG-Accountability to propose appropriate bylaws amendments to implement this refinement.

As for the Separation Working Group, as the BC also notes the “Community Mechanism as a Sole Member” may not be the right body as the number and protocol parameters communities would not be represented.

@32: Overall, USCIB believes that CCWG’s second draft proposal on enhanced ICANN accountability adequately addresses the seven dependencies identified by the names community. We are confident that the CCWG will conclude work on these mechanisms prior to ICANN 54, enabling the Names Community to confirm that its accountability requirements have been met. In the meantime, USCIB will respond separately and in more detail to the CCWG’s request for comments on these and other elements of the Accountability proposal issued on August 3, 2015.

2) Compatibility and interoperability: Do the operational community proposals work together in a single proposal? Do they suggest any incompatible arrangements where compatibility appears to be required? Is the handling of any conflicting overlaps between the functions resolved in a workable manner?

@34-35: Before the implementation phase, the Names Community should clarify that it has no objections to the numbers proposal that the trademarks and domain name associated with the provision of IANA services (www.iana.org) be held by the IETF Trust. Such clarity will remove a potential incompatibility between the three communities’ proposals. USCIB supports the IETF Trust holding the trademarks and domain names for IANA.

@1105: We understand that the present IANA staff will take up their same roles for the names, numbers, and protocols functions in the Post-IANA Transition (PTI) wholly-owned subsidiary that will be created. We agree that this wholesale transfer of staff resources and expertise best ensures the continued security and stability of the DNS.

However, USCIB asks the ICG to clarify how the Numbers and Protocols communities will interact with the new PTI entity and with whom the numbers and protocols communities will conclude contracts. If the Numbers and Protocols Communities want their contractual relations to be with ICANN (and treat the PTI as a subcontract), that should be spelled out. The ICG proposal should ensure that the arrangements for the non-name functions are consistent with the overall proposal. In addition, it should be made clear to what extent the Numbers and Protocols Communities participate in the IFR and CSC processes, which were designed as accountability mechanisms for the PTI.

3) Accountability: Do the operational community proposals together include appropriate and properly supported independent accountability mechanisms for running the IANA functions? Are there any gaps in overall accountability under the single proposal?

@37-38: USCIB recognizes that the numbers and protocols proposals build upon both of those communities' existing accountability functions. As noted above, we also recognize that accountability for the names function is contingent upon the outcome of Workstream 1 of the CCWG's process. USCIB will respond separately and in more detail to the CCWG's request for comments on its Workstream 1 proposal.

We underscore an important element of our earlier comments, which is that the overall soundness of the ICG's proposal depends on the effective development of broader mechanisms to enhance ICANN's accountability.

@1111: With respect to the naming functions proposal, we concur with the BC in urging that the PTI Board not be limited to three employees of ICANN or PTI and two independent directors, but rather draw from the broader ICANN Board. As the BC points out, employees of PTI would not necessarily provide the requisite level of accountability and the appointment of independent directors creates confusion as to who is ultimately responsible for carrying out the IANA functions. We are concerned that the proposed structure creates a risk that the ICANN Board and the PTI Board may try to avoid responsibility for any operational problems by seeking to hold the other accountable. If the ICG consensus supports the PTI Board structure proposed in the July 2015 draft, USCIB joins the BC in urging that the PTI's activities be more explicitly scoped and limited.

4) Workability: Do the results of any tests or evaluations of workability that were included in the operational community proposals conflict with each other or raise possible concerns when considered in combination?

@41 & 55: We noted in our May 2015 comments that it is essential for the IANA Transition plan to explicitly establish which entity will serve as the Root Zone Maintainer following the stewardship transition. We agree with the ICG that an "agreement between the IANA functions operator and RZM that clearly defines the roles and responsibilities of both parties is essential for the secure, stable and resilient operation of the Root Zone of the DNS when the NTIA withdraws from the Root Zone Management process."

USCIB is mindful of the transition mechanism developed by VeriSign and ICANN (published by NTIA on August 17) concerning how best to remove NTIA's administrative role associated with Root Zone Management in a manner that maintains the security, stability and resilience of the DNS. The proposal is well conceived. In particular, we appreciate the parallel testing approach, which enables any issues related to the transition to be addressed without disrupting the current operation of the root zone management system.

While the development of the VeriSign-ICANN proposal was "conducted in confidence at VeriSign's request, for commercial business reasons," direct insight into the plan for the IANA Functions Operator (IFO) agreement with the Root Zone Maintainer will ensure that there remains a well-established structure and process for approval of major architectural and operational changes in the

Root Zone environment. Therefore, the development of the IFO-RZM agreement should be developed in the same multi-stakeholder process as the other agreements such as the ICANN-PTI agreement, for which a draft statement of work (Annex E) and term sheet (Annex S) were attached to the current proposal.

As the BC also suggests, the final proposal should include a non-exclusive list of examples of root zone changes that would be subject to standing committee review for major clarity. We also believe the standing committee should report on its findings that major operational changes improve security, stability and resiliency of the DNS or of performance of the IANA function.

Questions Concerning NTIA Criteria

5) Do you believe the proposal supports and enhances the multistakeholder model? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

@46: USCIB agrees with the ICG that the combined proposal supports and enhances the multistakeholder model and that each element of the proposal enables bottom-up, transparent, and inclusive participation by all stakeholder groups.

6) Do you believe the proposal maintains the security, stability, and resiliency of the DNS? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

@51-52: We agree that neither the numbers nor protocols proposals suggest changes that would affect the security, stability, or resiliency of the DNS. We further agree that the proposed PTI, which will enable present IANA staff to take up their same roles without interruption, would not introduce disruptive elements to DNS management.

@54: USCIB also urges the completion of ongoing work on the new Service Level Agreement to enable its inclusion in this proposal before submission to NTIA.

Related to service level expectations, we feel it is important to highlight some continued concerns about the remit of the PTI Board. We share the view of the ICANN Business Constituency (BC) that the remit of the PTI Board should be clearly limited to operational oversight of IANA functions. This will help to ensure that PTI does not become a place to re-litigate policy decisions. These limitations therefore should be embodied in the names community's proposed set of guiding principles for PTI's service level expectations.

7) Do you believe the proposal meets the needs and expectations of the global customers and partners of the IANA services? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary. Please indicate if you are a

customer or partner of the IANA services.

@56: USCIB agrees that the creation of the PTI as the IANA Functions Operator (IFO) will continue to meet the needs and expectations of global customers and partners post-transition.

8) Do you believe the proposal maintains the openness of the Internet? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

@57: Yes, the combined proposal will maintain the openness of the Internet.

9) Do you have any concerns that the proposal is replacing NTIA's role with a government-led or inter-governmental organization solution? If yes, please explain why and what proposal modifications you believe are necessary. If not, please explain why.

@58-60: We agree that the ICG's combined proposal in and of itself does not replace NTIA's role with a government-led or inter-governmental organization. We further note that the Names Community created the PTI as a non-governmental entity and the Customer Standing Committee (CSC) and IANA Functions Review accountability mechanisms will be composed of multiple stakeholders. We are satisfied that the numbers and protocols proposals will not allow for capture by a government or intergovernmental entity.

With respect to the related CCWG's Workstream 1 Enhanced Accountability framework, however, USCIB has concerns regarding the role of governments in addressing policy issues. The Government Advisory Committee (GAC) should remain advisory in nature and operate on a consensus basis. We also urge the CCWG to include provisions aimed at ensuring greater transparency concerning interactions between ICANN staff or anyone acting on behalf of ICANN and government officials. We will further elaborate on these points in our separate submission concerning the CCWG proposal as such clarifications would further strengthen safeguards against potential government capture.

10) Do you believe that the implementation of the proposal will continue to uphold the NTIA criteria in the future? If yes, please explain why. If not, please explain why and what proposal modifications you believe are necessary.

Questions Concerning ICG Report and Executive Summary

11) Do you believe the ICG report and executive summary accurately reflect all necessary aspects of the overall proposal? If not, please explain what modifications you believe are necessary.

General Questions

12) Do you have any general comments for the ICG about the proposal?